srp.

HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5135 OF 2007.

Shivaji Pandurang Patil. ..Petitioners.

Versus.

The State of Maharashtra & ors. ..Respondents.

Ranjana Todankar i/b S.S.Pakale for the petitioner.

P. D. Dalve for the respondent no.5.

V. P. Malavankar A.G.P. for the State.

CORAM: S. B. MHASE &
D.G.KARNIK,JJ.

DATE: JULY 18, 2007.

P.C.

1. Heard. The petitioner is trying to claim the B.Ed scale. Initially the petitioner tried to make a case that she is entitled to B.Ed scale in preference to respondent no.5. Therefore, writ petition bearing Nos.4432 of 2000 and 3877 of 1999 were filed by the petitioner. The same were disposed of by this Court by order dated 20th September 2005, directing the Education Officer - respondent no.2 to decide the inter-se claim of the petitioner and respondent no.5. Now, the Education Officer has held that the respondent no.5 is entitled for B.Ed. scale and rejected the claim of the petitioner. Therefore, the petitioner has approached this Court with a grievance that the respondent nos.3, 6, 7 & 8 even though appointed on 13.6.1994, i.e., on the date when the petitioner was

also appointed, they have been granted B.Ed. scale and the claim of the petitioner has not been considered. The grievance of the petitioner further appears to be that she should have been shown at serial no. 4 in stead of at serial no. 8 in the seniority list and thereby her claim for the B.Ed. scale has been denied. This is absolutely new case made out in the petition which was never made and/or pleaded before the Education Officer - respondent no.2. Under these circumstances we find it appropriate to direct the Education Officer to consider this case in view of the powers vested in it under rule 12(2) of the M.E.P.S Rules. He shall fix the interse seniority of the petitioner, respondent nos. 3, 6, 7 & 8, and shall decide as to whether the petitioner is entitled to B.Ed. scale. While passing such orders the Education Officer shall give an opportunity to the petitioner, respondent nos. 3, 6, 7 & 8. All this exercise shall be completed by the Education Officer within a period of 12 weeks from today.

2. With these directions petition is disposed of.

(D.G.KARNIK, J.) **(S.B.MHASE, J.)**